## GOVERNMENT OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT



Application No. 15782 of Robert Dixon Kyle, pursuant to 11 DCMR 3107.2, for a variance from the side yard requirements (Subsection 405.9) for a deck addition to a single-family dwelling in an R-1-B District at premises 4541 45th Street, N.W. (Square 1588, Lot 40).

HEARING DATE: February 10, 1993

DECISION DATE: February 10, 1993 (Bench Decision)

## SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3E and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 3E. ANC 3E, which is automatically a party to the application, filed a written statement of issues and concerns in support of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 405.9. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore ORDERED that the application is GRANTED, SUBJECT to the CONDITION that the applicant shall submit a final fencing/screening plan for the Board's review and approval prior to this completion of construction of the deck.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

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VOTE:

3-0 (Angel F. Clarens, Sheri M. Pruitt and Paula L. Jewell to grant; William L. Ensign and Carrie L. Thornhill not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: /

MADELIENE H. ROBINSON

Director

FINAL	DATE	OF	ORDER:	FEB 2.6 1993
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PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15782Order/bhs

## GOVERNMENT OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT



## BZA APPLICATION NO. 15782

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on \_\_\_\_\_\_\_ 26 928 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Robert D. Kyle 4541 45th Street, N.W. Washington, D.C. 20016

Sharon Mayhew 4412 Brandywine Street, N.W. Washington, D.C. 20016

James Curtin, Chairperson Advisory Neighborhood Commission 3E P.O. Box 9953 Washington, D.C. 20016

MADELIENE H. ROBINSON

Director

**DATE:** FEB 2 6 1993

15782Att/bhs